



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/00CE/LDC/2022/0008**

Property : **St Peter's House, Princes Street,
Doncaster, South Yorkshire DN1 3NJ
(See Annex A)**

Applicant : **Groundinvest (101) Limited**

Representative : **Eight Asset Management**

Respondents : **The Residential Leaseholders of the
Property (See Annex B)**

Type of Application : **Landlord and Tenant Act 1985- section
20ZA**

Tribunal Member : **Judge Bennett**

**Date and venue of
hearing** : **Determined without a hearing**

Date of Decision : **2 December 2022**

DECISION

DECISION

Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to works comprising repair work to the three boilers to reinstate function.

REASONS

Background

1. On 26 January 2022, an application was made to the First-tier Tribunal (Property Chamber) (“the Tribunal”) under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a determination to dispense with the consultation requirements of section 20 of the Act. Those requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application was made by Groundinvest (101) Limited and relates to premises known as St Peter’s House, Princes Street, Doncaster, South Yorkshire DN1 3NJ (“the Property”). The Applicant is the landlord of the Property. The Respondents to the application are the long leaseholders of those apartments. A list of the Respondents is set out in the Annex hereto.
3. The only issue for the Tribunal to determine is whether or not it is reasonable to dispense with the consultation requirements.
4. The works in respect of which dispensation is sought comprises the repair works to the three boilers to reinstate function.
5. I gather that each of the Respondents have been given notice of the application and afforded the opportunity to view the Applicant’s supporting evidence. They have also been provided with a copy of the case management directions issued by the Tribunal on 19 August 2022. The Tribunal accepted that the Applicant complied with paragraph 7 of the directions and sent a copy of their bundle of documents to each Respondent on 1 September 2022. The directions subsequently required any Respondent who opposed the application to notify the Tribunal of their objection within 21 days of the receipt of the Applicant’s bundle. No such notification has been received.
6. I have determined this matter following a consideration of the Applicant’s case, but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Respondents have not objected. Moreover, having reviewed the case papers, I am satisfied that this

matter is indeed suitable to be determined without a hearing: although the Respondents are not legally represented, the application is unopposed and the issues to be decided are readily apparent.

7. The Tribunal did not inspect the Property, but I understand it to be a converted office building containing 51 apartments.

Grounds for the application

8. According to the Applicant, the application has been made to the Tribunal due to the communal boiler system failing, leaving numerous flats without access to heating or hot water. The Applicant advises that it was deemed to be unsafe, so the system had to be shut down and the Health and Safety Executive notified. It is submitted that all 51 apartments were without heating and hot water for 2 months, and had the Applicant consulted with the leaseholders, this period could have been extended to 4 to 6 months which would have been unacceptable.
9. The Tribunal has been advised that due to the urgency of the works, the Applicant could not issue any section 20 notices, undertake any form of consultation or obtain multiple quotes, as they had to make quick decisions to resolve the issue. The Applicant states that while they could not enter a formal consultation process, updates were shared with leaseholders by email, portal announcements and phone calls. During this period, numerous tenants requested alternative accommodation from their letting agents and consequently, letting agents were putting pressure on to Eight Asset Management to correct the issues as soon as possible and return the building to a habitable state. The Applicant highlights that they felt this was the only approach and believe they took the appropriate action as the legislation provides a route to dispense with the consultation requirements in circumstances such as these. The Applicant considered this matter to be an emergency and believed they should take all reasonable steps to remedy the boiler system as quickly as possible.
10. Additionally, the Applicant explains that the initial quote received would not have triggered the requirement for a consultation. However, due to the initial remediation works being inadequate, the cost of completing the work increased; thus, triggering the need for a consultation.

Law

11. Section 18 of the Act defines what is meant by “service charge”. It also defines the expression “relevant costs” as:

the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

12. Section 19 of the Act limits the amount of any relevant costs which may be included in a service charge to costs which are reasonably incurred, and section 20(1) provides:

Where this section applies to any qualifying works ... the relevant contributions of tenants are limited ... unless the consultation requirements have been either—
(a) complied with in relation to the works ... or
(b) dispensed with in relation to the works ... by the appropriate tribunal.

13. “Qualifying works” for this purpose are works on a building or any other premises (section 20ZA(2) of the Act), and section 20 applies to qualifying works if relevant costs incurred on carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.00 (section 20(3) of the Act and regulation 6 of the Regulations).

14. Section 20ZA(1) of the Act provides:

Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

15. Reference should be made to the Regulations themselves for full details of the applicable consultation requirements. In outline, however, they require a landlord (or management company) to:

- give written notice of its intention to carry out qualifying works, inviting leaseholders to make observations and to nominate contractors from whom an estimate for carrying out the works should be sought;
- obtain estimates for carrying out the works, and supply leaseholders with a statement setting out, as regards at least two of those estimates, the amount specified as the estimated cost of the proposed works, together with a summary of any initial observations made by leaseholders;
- make all the estimates available for inspection; invite leaseholders to make observations about them; and then to have regard to those observations;
- give written notice to the leaseholders within 21 days of entering into a contract for the works explaining why the contract was awarded to the preferred bidder if that is not the person who submitted the lowest estimate.

Conclusions

16. The Tribunal must decide whether it was reasonable for the works to go ahead without the Applicant first complying with the full consultation requirements. Those requirements are intended to ensure a degree of transparency and accountability when a landlord (or management company) decides to undertake qualifying works – the requirements ensure that leaseholders have the opportunity to know about, and to comment on, decisions about major works before those decisions are taken. They also ensure that leaseholders are protected from paying for inappropriate work, or from paying more than would be appropriate for necessary work. It is reasonable that the consultation requirements should be complied with unless there are good reasons for dispensing with all or any of them on the facts of a particular case.
17. It follows that, for it to be appropriate to dispense with the consultation requirements, there needs to be a good reason why the works could not be delayed until the requirements had been complied with. The Tribunal must weigh the balance of prejudice between, on the one hand, the need for swift remedial action to ensure that occupiers of the Property are not placed at undue risk and, on the other hand, the legitimate interests of the leaseholders in being properly consulted before major works begin. It must consider whether this balance favours allowing the works to be undertaken immediately (without consultation), or whether it favours prior consultation in the usual way (with the inevitable delay in carrying out the works which that will require). The balance is likely to be tipped in favour of dispensation in a case in which there is an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.
18. In reaching my decision, I have had regard to the fact that no objections were raised by the Respondent leaseholders when provided the opportunity to. I accept from the details provided that the works have been completed and were clearly urgent as they related to a basic service. While the Applicant has acknowledged the possibility that a cheaper quote might have emerged if the consultation requirements were adhered to, this question may be addressed in a separate application to the Tribunal for a consideration of the reasonableness of the service charges. As there does not appear to be any significant prejudice, I have no hesitation in concluding that retrospective dispensation should be granted.
19. The fact that the Tribunal has granted dispensation from the consultation requirements should not be taken as an indication that I consider that the amount of the service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. I make no findings in that regard.

Signed: L Bennett
Judge of the First-tier Tribunal
Date: 2 December 2022

Annex A – List of Properties

Flat 001 St Peters House	Flat 206 St Peters House
Flat 002 St Peters House	Flat 207 St Peters House
Flat 003 St Peters House	Flat 208 St Peters House
Flat 004 St Peters House	Flat 209 St Peters House
Flat 005 St Peters House	Flat 210 St Peters House
Flat 006 St Peters House	Flat 211 St Peters House
Flat 007 St Peters House	Flat 212 St Peters House
Flat 101 St Peters House	Flat 213 St Peters House
Flat 102 St Peters House	Flat 214 St Peters House
Flat 103 St Peters House	Flat 301 St Peters House
Flat 104 St Peters House	Flat 302 St Peters House
Flat 105 St Peters House	Flat 303 St Peters House
Flat 106 St Peters House	Flat 304 St Peters House
Flat 107 St Peters House	Flat 305 St Peters House
Flat 108 St Peters House	Flat 306 St Peters House
Flat 109 St Peters House	Flat 307 St Peters House
Flat 110 St Peters House	Flat 308 St Peters House
Flat 111 St Peters House	Flat 401 St Peters House
Flat 112 St Peters House	Flat 402 St Peters House
Flat 113 St Peters House	Flat 403 St Peters House
Flat 114 St Peters House	Flat 404 St Peters House
Flat 201 St Peters House	Flat 405 St Peters House
Flat 202 St Peters House	Flat 406 St Peters House
Flat 203 St Peters House	Flat 407 St Peters House
Flat 204 St Peters House	Flat 408 St Peters House
Flat 205 St Peters House	

Annex B- List of Respondents

Devonshire Corporate Management Ltd.	7S Properties
Mr Sandeep & Dr Sumeet Khosla	Ching Choi
Mr P Brown	Leigh Morris
AMS Investments and Property Ltd	P Cuddeford
Aayan Property Ltd	Mr Ian Wilson
Yuk Pui Cheung & Pik Yin Cheung	Mr A Eagleton
Mr A M Christiaanse	Yuk Pui Cheung & Pik Yin Cheung
H Jamal	Mr A Eagleton
Ibrahim Akinlolu	Nigel Darby
Prop Corp Ltd	Joanne Verbrugge
S Marais	Nirorag Limited
Nigel Darby	PNE Holdings
Mr Andrea Vacciano	GM QUALITY PROP
Prop Corp Ltd	Justice Oboh
Empire Property Limited	Brookview Investments Ltd
RENO HOUSE LTD	Mr A Thompson
R Bennett	Srisan Properties
S Chandaluru	Mr Sandeep & Dr Sumeet Khosla
4S Global Properties	Mr R D Hume
Empire Property Limited	Graham Moxon
Mark Christopher Properties Ltd	C Gallagher
Mrs P V Gayford	